

*Indian Tribe* means a Federally recognized tribe as defined under section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b) to include “\* \* \* any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 *et seq.*), that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.”

*Person* means any natural person, firm, corporation, association, or other legal entity, and includes Indian tribes and tribal entities.

*State* means any of the several States of the United States, and, where provided by law, any Territory of the United States or other area authorized to receive the services and programs of the Rural Utilities Service or the Rural Electrification Act of 1936, as amended.

*Target area* means the geographic area to be served by the grant.

*Target community* means the unit or units of local government in which the target area is located.

#### **§ 1709.4 Allocation of available funds among programs.**

The Administrator, in his sole discretion, shall allocate available funds among the programs administered under this part and determine the grant application periods under each program. In making fund allocations for each fiscal year, the Administrator may consider the amount of available funds, the nature and amount of unfunded grant applications and prior awards, Agency resources, Agency priorities, and any other pertinent information.

#### **§ 1709.5 Determination of energy cost benchmarks.**

(a) The Administrator shall establish, using the most recent data available, and periodically revise, the home energy cost benchmarks and the high energy cost benchmarks used to determine community eligibility for high energy cost grant and loan programs and the Denali Commission high energy cost grants and loans. In setting

these energy cost benchmarks, the Administrator shall review the latest available information on home energy costs published by the EIA. High energy cost benchmarks will be set at 275 percent of the applicable national average home energy cost benchmark as determined by the Administrator from the published EIA data. Eligibility benchmarks shall be published in each grant announcement.

(b) For use in determining eligibility for High Energy Cost Grants, the Administrator may establish benchmarks for national average annual household expenditures and for national average household per unit energy expenditures for major home energy sources or fuels, including, but not limited to, electricity, natural gas, fuel oil, kerosene, liquified petroleum gas (propane), other petroleum products, wood and other biomass fuels, coal, wind and solar energy.

#### **§ 1709.6 Appeals.**

An applicant may appeal a decision by the Assistant Administrator, Electric Program rejecting an application for failure to meet eligibility requirements. Applicants may not appeal rating panel scores or rankings. An appeal must be made, in writing to the Administrator, within 10 days after the applicant is notified of the determination to reject the application. Appeals must state the basis for the appeal and shall be submitted to the Administrator, Rural Utilities Service, U.S. Department of Agriculture, 1400 Independence Ave., SW., STOP 1500, Washington, DC 20250-1500. Thereafter, the Administrator will review the appeal to determine whether to sustain, reverse, or modify the original determination. The Administrator's determination shall be final. A written copy of the Administrator's decision will be furnished promptly to the applicant.

#### **§ 1709.7 Applicant eligibility.**

An outstanding judgment obtained against an applicant by the United States in a Federal Court (other than in the United States Tax Court), which has been recorded, shall cause the applicant to be ineligible to receive a grant or loan under this part until the judgment is paid in full or otherwise

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satisfied. RUS financial assistance under this part may not be used to satisfy the judgment.

### **§ 1709.8 Electronic submission.**

Applicants may submit applications and reports electronically if so provided in the applicable grant announcement and grant agreements or if other regulations provide for electronic submission. Any electronic submissions must be in the form prescribed in the applicable grant announcement, grant agreement, or regulation.

### **§ 1709.9 Grant awards and advance of funds.**

The grantee must execute a grant agreement that is acceptable to the Agency. The grantee must sign and return the grant agreement to the Agency, within the time specified, before any grant funds will be advanced.

### **§ 1709.10 Ineligible grant purposes.**

Grant funds under this part may not be used to:

(a) Pay costs of preparing the application package for funding under programs in this part, or for any finders fees or incentives for persons or entities assisting in the preparation or submission of an application.

(b) Fund political activities;

(c) Pay any judgment or debt owed to the United States; or

(d) Pay construction costs of the project incurred prior to the date of grant award except as provided herein. Construction work should not be started and obligations for such work or materials should not be incurred before the grant is approved.

(1) Applicants may request Agency approval for reimbursement of pre-award construction obligations if there are compelling reasons for proceeding with construction before grant approval. Such requests may be approved if the Agency determines that:

(i) Compelling reasons, as determined by the Agency, exist for incurring obligations before grant approval;

(ii) The obligations will be incurred for authorized grant purposes;

(iii) All environmental requirements applicable to the Agency and the applicant have been met;

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(iv) The applicant has the legal authority to incur the obligations at the time proposed, and payment of the debts will remove any basis for any mechanic's, material, or other liens that may attach to the grant financed property; and

(v) The expenditure is incurred no more than 18 months before the date of the Administrator's approval of the grant award.

(2) The Agency may authorize payment of approved pre-award project construction obligations at the time of award approval. The applicant's request and the Agency's authorization for paying such obligations shall be in writing.

### **§ 1709.11 Award conditions.**

In addition to all other grant requirements, all approved applicants will be required to do the following:

(a) Enter into a grant agreement with the Agency in form and substance acceptable to the Agency;

(b) Request advances or reimbursements, as applicable, as provided in the grant agreement; and

(c) Maintain a financial management system that is acceptable to the Agency.

### **§ 1709.12 Reporting requirements.**

To support Agency monitoring of project performance and use of grant funds, Grantees shall file periodic reports, required under 7 CFR part 3015, as provided in this part, and the grant agreement as follows:

(a) A financial status report listing project expenditures by budget category in such form and at such times as provided in the grant agreement.

(b) Project performance reports in such form and at such intervals as provided in the grant agreement. The project performance report shall compare accomplishments to the objectives stated in the proposal and grant agreement. The project performance report should identify all completed tasks with supporting documentation. If the project schedule as approved in the grant agreement is not being met, the report should discuss the problems or delays that may affect completion of